

JUL 6 1982

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal Income tax under Section 501(c)(4) of the Internal Revenue Code.

The information you submitted shows that you were incorporated under the non-profit laws of the State of [REDACTED] on [REDACTED]. Your purposes are to maintain, operate, and manage the common elements of [REDACTED], and to do any other lawful act concerning any and all lawful business under the [REDACTED] Non-profit Corporations Act.

The common elements you were formed to maintain are all properties and conveniences owned in common by the members, which includes all property except the interior of the individually owned residential units.

You are a membership organization, your membership consisting of all unit owners of [REDACTED]. Membership is automatic and mandatory with the purchase of a unit.

Each member is assessed a pro-rata share of your approved annual budget, each share proportionate to the member's percentage of ownership interest in the common elements as established by the developer. The assessments account for substantially all of your income.

You did not provide the narrative description of activities requested by the application other than to state that your purpose is to act on behalf of your members with respect to the administration, maintenance, operation, repair and replacement of certain property. Your financial statements, however, show that you have incurred expense in your operations for driveway lighting, gutter cleaning, window cleaning, tree cutting, landscaping, tree removal, refuse removal, utilities, repairs and insurance on the property as well as other miscellaneous expenses.

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of organizations not organized for profit but operated exclusively for the social welfare of [REDACTED]

Code	Reviewer	Reviewer	Reviewer	Reviewer
Sumame				
Date	7/6/82			

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 73-17, 1974-1 C.B. 130 held that an association formed by unit owners of a condominium to manage and maintain common areas does not qualify for exemption under section 501(c)(4) because the essential nature and structure of a condominium system of ownership necessarily involves ownership in common by all condominium unit owners of the so-called common areas, the maintenance and care of which necessarily constitutes the provisions of private benefits for the unit owners. Since the organization's activities are for the private benefit of members, it is not operated exclusively for social welfare.

This is supported by Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), in which the court held that a cooperative housing corporation was not exempt as a social welfare organization described in section 501(c)(4) because its activities were of the nature of a private cooperative undertaking. Likewise, Revenue Ruling 69-280, 1969-1 C.B. 152 held that an organization formed to provide maintenance of exterior walls and roofs of members' homes served a private interest and did not qualify as a social welfare organization described in section 501(c)(4) of the Code.

Since you were formed and are operated to care for private property owned in common by your members, we hold that you are primarily operated for the private benefit of your members, and not for the common good and general welfare of the people in the community. Accordingly, you do not qualify for exemption under section 501(c)(4) as a social welfare organization. Neither are you exempt under any related section of the Code.

You are required to file Federal income tax returns on Form 1120, unless you qualify and elect to file Form 1120-B, excluding member income from taxable income as provided in section 528 of the Code.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office,

[REDACTED]

if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final. --

Sincerely yours,

[REDACTED]
District Director

Enclosure: Pub. 892

[REDACTED]